IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 1020 OF 2004

Ganesh Kishanrao Kople. ...Appellant
V/s.
Kavadu Tulasya Khandale & Anr. ...Respondents

Appellant present in person.
Ms.Rajeshree M. Gadhavi, APP for the State.

CORAM : V.M. KANADE, J.

DATED : MARCH 16, 2006

P.C. :-

. Heard appellant in person.

. The appellant is challenging the order passed by the Special Court and by the Sessions Court whereby his revision application has been rejected. The appellant had instituted perjury proceedings against the respondent under Section 340 of the Code of Criminal Procedure alleging that the respondent had made several false statements in his deposition. In the meantime, the Advocate General of the State of Maharashtra had taken out proceedings against the respondent under the Maharashtra Vexatious Litigation (Prevention) Act, 1971 and the Court had directed that the respondent shall not

file any complaint against any person except with the leave of this Court.

2. This Court in Writ Petition bearing B.D.No.15088/03 by order dated 12th December, 2003 stayed all pending legal proceedings which were instituted by the respondent-Kavadu Khandale in various courts. The order passed by this Court was communicated to all the courts where the respondent had filed criminal complaints. The Sessions Court held that in view of the stay granted by this Hon’ble Court, it was not possible to consider the grievance of the present appellant Shri Ganesh Kople, petitioner in person and accordingly, rejected the criminal revision application. The grievance of the appellant is that a perjury application could not have been rejected and it was open for the Sessions Court to decide this application.

2. In my view, in view of the order passed by the Division Bench of this Court staying all proceedings which are instituted by respondent no.1, the Sessions Court had no other option but to stay the further

proceedings in the perjury proceedings taken out by the appellant herein since the perjury proceedings were arising out of the proceedings which were initiated by respondent no.1 which were stayed by this Court. However, it has to be clarified that the Sessions Court ought to have kept the criminal revision application pending till the final disposal of the writ petition which was filed by the Advocate General for the State of Maharashtra and after final orders were passed, thereafter, take appropriate decision in the case. However, the fact remains that in view of the stay granted by the Division Bench of this Court, the further proceedings also will have to be stayed.

3. In the result, the appeal is partly allowed. The order passed by the Sessions Court is set aside only to the extent of dismissing the Misc. Application No.315/2003 in Criminal Revision Application No.252/2003. It is clarified that the said Misc. Application be kept pending till the disposal of the writ petition which is pending in this Court.

. With these directions, the appeal is partly allowed.

(V.M. Kanade, J.)